

### **REMARKS**

Claims 1-21 are pending in the application. Claims 10 and 11 are withdrawn from consideration as being drawn to a non-elected species. Claims 1-9, 12-14 and 16-18 are rejected. Claims 15 and 19 are objected to but would be allowable if placed in independent form. Claims 20 and 21 are allowed.

#### ***Request for Withdrawal of Final Rejection***

The Examiner has rejected claim 13 for the first time in the present Office Action, as the claim previously had been withdrawn from consideration as not elected. Applicant respectfully submits that the finality of the outstanding Office Action is improper since the claim has not previously been twice rejected. Under the provisions of MPEP 706.07(a), a new rejection of the claims, not necessitated by Applicants' amendment, should not be made final.

#### ***Claim Rejections - 35 U.S.C. § 103***

**Claims 1-4, 6, 12-14, 16-17 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki (6,488,582) in view of Peppel (6,200,216).** This rejection is traversed for at least the following reasons.

The Examiner repeats the basis for rejection stated in the first Office Action and responds to the Applicant's arguments presented in the Amendment filed on June 8, 2005. In particular, the Examiner rebuts the Applicants' argument that Suzuki does not teach the use of cards per se and Applicants' arguments that Peppel does not teach the use of additional cards when the characters reach new levels in the game.

#### **Suzuki**

To the Applicants, it appears that the Examiner agrees that Suzuki does not teach a card game. Nonetheless, Applicants respectfully note that the Examiner repeats the basis for rejection in the First Office Action, and now appears to rely upon the teachings in Suzuki that include a general discussion of a battle game where the battle occur in stages and each character increases its power by virtue of winning battles at lower stages. The Examiner states that Suzuki teaches "the type of battles used in Applicants' game" and now asserts that Suzuki teaches the increase in character power in later battles.

Again, the present invention is specifically directed to a game machine which enables a player and an opponent to play a battle by laying down their cards in the game screen. The invention is expressly focused on a card game that uses playing cards.

However, as previously noted, Suzuki does teach that the action power of a player character may be increased in accordance with the change in color attributes that have been obtained based upon actions executed by a character and identified by a command. Applicants again respectfully submit that the use of color attributes is not the same as the use of cards, as the present specification makes it clear that the cards envisioned by the invention and recited in the claims are those that can be stored in a deck where card information is read directly from the deck, as described at pages 1 and 2 of the specification. Moreover, the use of color attributes is not the same as increasing the number of cards available in a battle when a player keeps on winning. Increasing the “action power” of a character can take many forms, including a change in color or a change in shape, but would not involve a number of elements. Thus, the teachings of Suzuki have no relationship to an increase in a number of any indicia of power, such as cards.

### **Peppel**

The Examiner looks to Peppel for a teaching of the concept that cards may increase in power. The Examiner states that Peppel does teach use of additional cards when the characters reach new levels in a game and asserts that such new level would involve the winning of previous battles. The Examiner also asserts that Suzuki uses additional cards attached to original cards in subsequent situations. Applicants again submit that the reference does not remedy the deficiencies of Suzuki nor provide the teachings asserted by the Examiner.

In particular, Applicants respectfully submit that the patent to Peppel is a general teaching of trading card-type activities involving electronic trading cards (ETC). The majority of the teaching in Peppel is focused on ETC trading cards, not on games.

Applicants submit that, given the primary teaching of an ETC-based activity, the limited teaching related to games at col. 10, line 59-col. 12, line 48, and the specific statement at col. 10, line 62 that “ETC games are distinct from existing computer or video games” and that the game

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architecture includes dissociated components in the form of ETCs, there is a clear teaching away from any combination of Peppel with a centralized gaming system such as Suzuki.

The Examiner drops his assertion that Peppel teaches ETC adventure games beginning at col. 10, line 66 since at that location, Peppel suggests that the disclosed games are similar in structure to existing video and computer games except for a unique distinction: “they require ETCs to move the action of the game forward and in some cases also generate ETCs in the course of a game.” There is no other teaching or suggestion as to how the ETCs may be used or generated. In particular, there is no teaching or suggestion that there is a control device which increases the number of cards available in a battle when the player continues winning. The increase in cards briefly referenced by Peppel may be through any number of reasons including additional payments or credits used.

The Examiner continues to point to the teachings at col. 11, lines 4-15 for evidence that a particular character/card may be augmented or used to show that a player has achieved the level of playing a game “such as winning a previous battle”. Again, Applicants assert that this suggestion with regard to a previous battle comes from the Examiner’s own hindsight, rather than from any teaching in the reference. Applicants’ invention involves the specific increasing the number of cards based upon victories in battle. Nothing in any of the prior art references teaches or suggests such features.

As to the dependent claims, the specific features of the invention involving use, increase or manipulation of a number of cards is simply not taught in Peppel.

In claim 2, there is no teaching or suggestion of an increase in the number of cards available in a battle where there are a plurality of stages set by the control device where a player advances to a next stage after having won over respective opposing characters in a certain stage.

With regard to claim 3, the Examiner asserts that the predetermined number of times may be one time. Applicants submit that the phrase “a predetermined number of times” is stated as a plurality, which would be more than one.

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As to claim 4, there is no control device to enable loading of a plurality of card information steps pertaining to a plurality of cards on a computer readable medium.

As to claim 6, there is no use of a plurality of card information steps in a battle-type game.

The same arguments as presented above would apply to claims 12-14, which concern a method of controlling operation of a game machine, and claims 16-18, which concern a computer readable medium.

**Claims 5, 7, 8 and 9 are Rejected Under 35 U.S.C. § 103(a) as being unpatentable over Suzuki and Peppel, as applied to claim 1, and further in view of Matsuno (6,729,960).** This rejection is traversed for at least the following reasons.

Applicants further assert that Matsuno does not remedy the deficiencies of the Suzuki or Peppel references. Further, Applicants assert that Matsuno is cited only for its teachings of the use of "enable flags" by a control device in order to reference code information from a data storage area.

***Allowable Subject Matter***

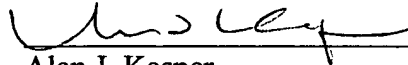
The Examiner has allowed claims 20 and 21, and considers claims 15 and 19 to be allowable if rewritten in independent form. Applicants submit that all of the claims, including withdrawn claims 10 and 11 should be allowable. Indeed, as to claims 10, 11 and 13, these claims contain limitations that are similar to those in allowable claims 15 and 19, and the bases for allowability should be applicable to claims 10, 11 and 13 as well.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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**23373**

CUSTOMER NUMBER

Date: November 23, 2005